

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ADAM R. MYERS,

Plaintiff,

v.

ROBERT COSSEY,
MICHEAL JOLSTEAD, JR., and
SPOKANE COUNTY,

Defendants.

NO: 2:20-CV-0243-TOR

ORDER OF DISMISSAL

By Order filed August 10, 2020, the Court advised Plaintiff of the deficiencies of his complaint and directed him to amend or voluntarily dismiss within sixty (60) days. ECF No. 8. Plaintiff, a pretrial detainee at Spokane County Detention Services is proceeding *pro se* and *in forma pauperis*; Defendants have not been served.

Specifically, Plaintiff's allegations against his attorney, a prosecuting attorney, and the county failed to state a claim upon which relief may be granted.

1 *See Miranda v. Clark County*, 319 F.3d 465,468 (9th Cir. 2003); *Imbler v. Pachtman*,
2 424 U.S. 409, 430-31 (1976); *Monell v. New York City Dep't of Soc. Servs.*, 436 U.S.
3 658, 690 (1978). Furthermore, because Plaintiff sought the dismissal of pending
4 criminal charges, and thereby his release from pretrial confinement, his only federal
5 remedy is a writ of habeas corpus with its requirement of exhaustion of state
6 remedies. *See Preiser v. Rodriguez*, 411 U.S. 475, 487-90 (1973). The Court also
7 determined that it was appropriate to abstain from intervening in a pending state
8 court criminal proceeding under *Younger v Harris*, 401 U.S. 37, 45 (1971).

9 Plaintiff did not comply with the Order to Amend or Voluntarily Dismiss and
10 has filed nothing further in this action. For the reasons set forth above and in the
11 Court's prior Order, ECF No. 8, **IT IS ORDERED** that the Complaint is
12 **DISMISSED without prejudice** to Plaintiff filing any challenge to the fact or
13 duration of his confinement in the appropriate forum. Under *Washington v. L.A.*
14 *Cty. Sheriff's Dep't*, 833 F.3d 1048 (9th Cir. 2016), this dismissal will NOT count as
15 a "strike" pursuant to 28 U.S.C. § 1915(g).

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1 **IT IS SO ORDERED.** The Clerk of Court is **DIRECTED** to enter this Order,
2 enter judgment, provide copies to Plaintiff and **CLOSE** the file. The Court certifies
3 pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not be taken
4 in good faith and would lack any arguable basis in law or fact. Plaintiff's *in forma*
5 *pauperis* status is hereby **REVOKED**.

6 **DATED** October 13, 2020.



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THOMAS O. RICE
9 United States District Judge